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## TELEGRAM

INDICATE  
☐ COLLECT  
☐ CHARGE TO

BI 172 PBI

FROM  
AMEMBASSY BUENOS AIRES

CLASSIFICATION

E.O. 11652:

TAGS:

SUBJECT:

GDS

SHUM, SREF, AR

THE RIGHT OF OPTION PROGRAM - A ROUNDUP

ACTION:

SECSTATE WASHDC

IMMEDIATE

INFO:

AMEMBASSY ASUNCION

AMEMBASSY BRASILIA

USMISSION GENEVA

AMEMBASSY MONTEVIDEO

USCINCSO QUARRY HTS CZ

AMEMBASSY SANTIAGO

[REDACTED] BUENOS AIRES 9110

PASS TO INS/CO

SUMMARY. The PEN prisoner population declined slowly but steadily in 1978. Most notable has been the recent drop in new cases brought under the PEN. Strict standards and widely dispersed decision making power continue to prevent a greater number of releases. Many of the 1978 PEN releases were actually transfers to judicial jurisdiction or <sup>expulsion</sup> ~~disbursed~~ cases of foreign or dual nationals. Receiving nations are developing concrete programs to accept PEN prisoners as a humanitarian gesture, but the GOA is presently demonstrating reluctance "to option" its PEN prisoners out of the country. END SUMMARY.

ARGENTINA PROJECT (S200000044)

U.S. DEPT. OF STATE, A/RPS/IPS

Margaret P. Gafeld, Director

( ) Release ( ) Excise ( ) Deny

Exemption(s):

Declassify: ( ) In Part ( ) In Full

Classify as ( ) Extend as ( ) Downgrade to

Date 6/11/01 Declassify on Reason 5X1

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DRAFTED BY:

POL:FAHarris:jk

DRAFTING DATE

11/16/78

TEL. EXT.

276

CONTENTS AND CLASSIFICATION APPROVED

A/POLCOUNS:AGFreeman

CLEARANCES:

CONS:GShapiro

POL/R:JDiStefano

DCM:MChaplin

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January 1976  
Dept. of State

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1. 1978 PEN Statistics-----

	<u>Placed Under PEN</u>	<u>Removed from PEN</u>	<u>Expelled</u>	<u>Authorized to Leave Country</u>
January	98	19	6	-
February	75	47	3	13
March	70	99	6	17
April	49	81	2	3
May	8	36	-	6
June	22	35	1	7
July	18	59	0	2
August	0	111	4	10
September	14	58	1	1
October	<u>3</u>	<u>118</u>	<u>3</u>	<u>18</u>
Total	357	663	26	77

2. While according to the officially produced statistics, there has not been a significantly wide variance in the monthly rate of PEN cessation, expulsion and right of option cases throughout 1978, the number of new cases placed under PEN detention does appear to have dropped off <sup>sharply</sup> in the last three months. This has resulted in a decrease of 470 PEN prisoners from the 3,607 PEN prisoners held at Christmas, 1977 (or a decrease of 409 since Dec. 31, 1977). According to our tally, then, the total of PEN prisoners acknowledged by the GOA now is 3,137.

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In addition, [ ] 131

estimates that there are about 200 informally recognized prisoners held at the disposition of military authorities (DAM's).

3. Several facts are hidden in the numbers. First, a large percentage of the persons who are removed from PEN remain in jail under criminal charges. Interior Ministry source recently informed the Embassy that the MinInt has made a major effort this year to remove the PEN decrees of all sentenced and almost all indicted PEN detainees. He estimated that only 10 percent of the current PEN population were also being held under criminal charges. Source noted that the MinInt saw no policy reason to hold sentenced persons under State of Siege decrees. Source also said that the Ministry has also removed the PEN decrees in over thirty cases to force the presiding judges to work actively on the criminal cases. (This appears to be supported by recent family reports, especially from Second and Third Corps area cases, that PEN prisoners are being interrogated by military and justice officials and charged with crimes.) In other cases, however, the MinInt has issued PEN decrees at the request of judges in "difficult cases" when the judicial investigation

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will take longer than the period of time of preventive detention allowed under the criminal code.

4. Secondly, a fair number of the right of option cases and, of course, all the expulsion cases are of persons recognized by other governments as their nationals. [ ] estimates that over half of the foreign national and dual national PEN prisoners have been released. B1

5. Strict Standards and Procedures-----

The Right of Option Program remains practically paralyzed reportedly by Army opposition to the release of subversives and the extensive clearance system which allows any senior military commander involved in a case to veto the option petition. The PEN files are shuttled all over the country to allow each involved officer to clear the right of option petition. Consequently, the program is barely moving.

6. The strict administration of the release program for PEN detainees has produced grumbling from Ministry of Interior officials who have expressed resentment at the wholesale blackballing of "good cases" presented by the Ministry & for release. Col. San Roman, chief administrator of the right of option program [ ] in the MinInt, expressed hope to us in early September

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that the program will function better in the future after the annual military promotion and reassignment cycle. He expressed the hope that the new staff to be assigned to the right of option program would not be tied down to the "old views" or individuals who have been involved in the anti-subversion campaigns in the past. (Note: We do not know if San Roman's expressed hope is solidly based. We also ~~hope~~ note that the change ~~may~~ may be affected by a recent decision to postpone most reassignments in the Army until March, 1979.)

7. The physical processing of right of option and expulsion cases has been taking several months after the option decree has been signed by the President. Evidently a complete rechecking by the various GOA agencies ~~agency~~ is required prior to authorizing the person's onward travel. The UNHCR reports one extreme case in which an Uruguayan national, Pereyra Videla, received an official expulsion order in 1975, but has remained detained ever since awaiting "final clearances".

8. On the other hand, the federal police have shown flexibility recently regarding the final destination of option cases' onward travel. The police allowed

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Mrs. Ana Di Giovanni de Spronieri to leave Argentina with an Italian visa and to travel directly to Colombia to join her husband. The police official said that they did not care where people went as long as they have a valid visa when they leave Argentina indicating that there is some country which will accept them.

9. Receiving Nation Programs-----

As the GOA consideration of the release of its PEN prisoners continues to grind in small circles, acceptance within the international community of right of option cases continues to grow. Several receiving countries have begun seriously to process applications for their respective right of option parole programs for Argentine nationals.

10. The US Embassy as of November 7 had received 342 applications for the parole program. We have granted 9 certificates - 4 have travelled, 4 are awaiting GOA's decision on their option requests, and one was released from PEN by GOA before his option request was considered. The West German Embassy detailed a consular official from Rio here for the last six weeks who initially approved over 200 right of option applications. The Swedish Embassy has actually issued 120 right of option certificates but with only minimal results. Two PEN detainees have been allowed to travel to Sweden and

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two others have been granted the "right" of option and are being out processed. Officials from Canadian refugee resettlement organizations recently visited Buenos Aires to discuss the implementation of the Canadian parole program.

11. Extortion Reports-----

We have received recently reports from three families alleging that financial demands have been made to obtain the release from PEN of their relatives. We have no third party confirmation of these reports, nor any notion of how widespread are the allegations of such practices, but note that the wide diffusion of decision making power in these PEN cases expands the opportunities for abuse.

12. Omission in PEN Name Lists-----

In response to an FRG Embassy inquiry, MinInt Security chief San Roman reportedly acknowledged<sup>ged</sup> that the names of 157 PEN prisoners were not published in the jail by jail listing of PEN prisoners in early 1978. San Roman claimed that the omission was due to administrative problems. (Note: The GOA jail lists published over a period of ~~about~~ months in early 1978 included only 3,336 prisoners' names. <sup>The</sup> PEN prisoner population <sup>was</sup> 3,600 persons,

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during that period according to our accounting of the weekly PEN input-output reports.)

13. COMMENT. We do not yet know whether the drop in new PEN prisoners over the past three months represents the beginning of a significant trend or not. END COMMENT.

CASTRO  
*[Signature]*

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